

FEB 12 2010

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF  
APPLICATION FOR LICENSE FOR  
STEPHAN PICKMAN

)  
) FINDINGS OF FACT, CONCLUSIONS  
) OF LAW, RECOMMENDED ORDER  
) AND ORDER

)  
) CAUSE NO. A-1861  
)  
)  
)

This matter came on for hearing on the 3<sup>rd</sup> day of February, 2010, before Martin W. Swanson, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Joel F. Green. Stephan Pickman ("Pickman") appeared by telephonic conference call and was assisted by, James Struss. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was received, testimony was adduced and the matter was taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent was formerly a licensed nonresident insurance producer whose address submitted to the Department on his application to the Department of Insurance was 43 Hill Street, Floral Park, NY 11001. (E2).

2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.

3. Respondent received notice of this hearing and the hearing was held telephonically. (E3).

4. Respondent had a previous administrative action taken against him in Nebraska, specifically *State of Nebraska Department of Insurance vs. Stephan Pickman*, Cause No. A-1800, which resulted in the revocation of his nonresident license for multiple violations of *Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(g), and 44-1525(11)*. In that matter, the Department concluded that Pickman failed to respond to multiple letters regarding an investigation conducted by the Consumer Affairs Division of the Department. (See *State of Nebraska Department of Insurance vs. Stephan Pickman*, Cause No. A-1800).

5. On December 7, 2009, the Producers Licensing Division of the Department received an application for a nonresident producer license from Pickman. Jason McCartney ("McCartney"), licensing administrator for the Department, reviewed the application and noted that Pickman answered "yes" to a question with regard to if had any administrative actions taken against him. Based upon that, and other information supplied by Pickman, McCartney rejected Pickman's application for a license. The license application was rejected on or about December 11, 2009, and on January 11, 2010 Pickman requested that a hearing be held for reconsideration of the application. (E2).

6. At the hearing, Pickman testified that he is employed by Philip Teseo Sr., an insurance agency in New York State. Pickman admitted that he had failed to answer the letter from the matter arising in Cause No. A-1800, but asserted that other individuals in his office were responsible for the non-response. Moreover, Pickman believed that the substance of the complaint was without merit and was rectified. Pickman admitted that ultimately that it was his responsibility as an insurance producer to answer any inquires from the Department.

7. The evidence submitted by both parties indicated that Pickman, because of the order in Cause No. A-1800, had issues arise in other states. Pickman failed, at times, to inform other

states about his revocation in Nebraska. It would appear that Pickman has had some type of administrative action(s) taken against him in Virginia, Utah, New Jersey, Kentucky, California, Wisconsin, Kansas, and Ohio. Pickman's license was temporarily revoked in Kansas and California, but was subsequently reinstated. Pickman was fined for failure to report his Nebraska violations in North Carolina and Utah. Additionally, Pickman was issued a warning letter in Virginia. Pickman also has an action pending in Ohio. (E1).

8. In addition to the administrative actions mentioned in paragraph seven, Pickman also was fined \$500 by the State of Utah for failing to respond to an inquiry. (E1).

9. In the Kentucky matter, Pickman admitted that it took 74 days to respond to Kentucky's inquiry. (E1).

10. In a letter to the Department, Pickman admitted that he was "...unaware that once an action had been taken against my license in one jurisdiction that I was required to notify every other jurisdiction in which I have a license." (E1, 2).

11. Pickman stated that other than the aforementioned administrative issues, he has not had any other administrative actions taken against him. (E1, 2).

#### CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Pickman to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101.01 and §44-4001 et seq.

2. The Department has personal jurisdiction over Pickman.

#### DISCUSSION

While it is true that Pickman's problems did start with a simple failure to respond to the Department, the escalation of those problems is due solely to Pickman. The evidence reveals that Pickman has had administrative actions taken against him in eight states. He has been fined by two

of those states, and issued a warning in another. In the meantime, he has also failed to respond to the Utah Department of Insurance, and paid a fine for that matter as well. When one has a license to transact the business of insurance in any state, it is presumed that the individual knows, understands, and obeys the laws, rules, and regulations of those states. Pickman, by virtue of his actions and own words, did not.

In the hearing, Pickman took responsibility for his violations but also blamed others who had worked at his agency for his failure to respond and the explosion of other administrative actions in the other states. Ultimately, and under the law, Pickman cannot delegate this responsibility.

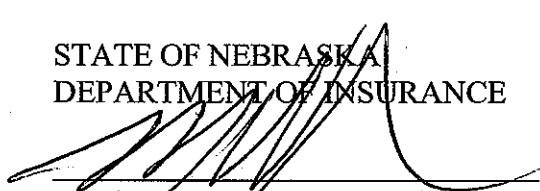
Pickman's numerous administrative problems in the other states and his own unwillingness to fully accept responsibility weighs greatly in my recommendation to the Director. It is my recommendation that Pickman should not be granted an insurance producer's license.

#### RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Stephan Pickman's application for nonresident license is disapproved. The Nebraska Department of Insurance will continue to retain jurisdiction over this matter.

Dated this 12th day of February, 2010.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



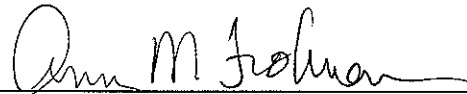
Martin W. Swarison  
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of the Denial of Application for License for Stephan Pickman, Cause No. A-1861.

Dated this 12<sup>th</sup> day of February, 2010.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



Ann M. Frohman  
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon Stephan Pickman by mailing a copy to Respondent at 43 Hill Street, Floral Park, NY 11001, by certified mail, return receipt requested, on this 12<sup>th</sup> day of February, 2010.

